

United States Court of Appeals

For the Eighth Circuit
St. Louis, Missouri, 63102

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|--|---|---------------------------|
| EDWARD F. PLASTINO and |) | |
| SECOND AMENDMENT FOUNDATION, INC., |) | Appeal from the United |
| |) | States District Court for |
| Appellants, |) | the Eastern District of |
| |) | Missouri, Eastern |
| v. |) | Division |
| |) | |
| CHRIS KOSTER, in his Official Capacity as |) | Case No. 4:12-CV-1316 |
| Attorney General of the State of Missouri; and |) | |
| TOM NEER, in his Official Capacity as |) | Charles A. Shaw, District |
| Sheriff of St. Charles County, Missouri, |) | Judge |
| |) | |
| Appellees. |) | |
| |) | |

F.R.APP.P. 26.1(b) MOTION FOR EXTENSION OF TIME TO FILE BRIEF

Plaintiffs-Appellants, EDWARD F. PLASTINO and SECOND AMENDMENT FOUNDATION, INC. (hereinafter “Appellants”), pursuant to F.R.App.P. 26.1(b), move this Honorable Court to grant them an extension until October 11, 2013 to file their opening Brief. In support thereof, Appellants state the following:

1. Appellants’ opening Brief was currently due on July 22, 2013.
2. The issue in this case is the State of Missouri’s prohibition on otherwise qualified non-U.S. citizens who legally reside in Missouri from obtaining a concealed carry permit, pursuant to Revised Statutes of Missouri § 571.101.2(1). Specifically, Plastino is a permanent resident alien and Second Amendment Foundation is suing on behalf of its members in Missouri who are likewise permanent resident aliens.

3. Appellants filed this appeal following the denial of their Motion for a Preliminary Injunction, pursuant to 28 U.S.C. § 1292(a)(1).

4. Recently, the Governor of Missouri signed Missouri Senate Bill 75 (hereinafter “SB 75”). A copy of SB 75 is attached hereto.

5. SB 75 specifically amended the challenged statute to allow otherwise-qualified permanent resident aliens to obtain a concealed carry permit (*See* p.15 of SB 75). Once SB 75 goes into effect, it will give Appellants the relief they are seeking through this lawsuit.

6. Plaintiffs’ counsel contacted Defendants about whether the passage and Governor’s signing of SB 75 mooted the case and this appeal. The Defendants’ counsel both stated they did not believe SB 75 would moot the case until August 28, 2013, which is when Plaintiff Plastino will be able under the new law to apply for a concealed carry permit. To Plaintiffs’ understanding, the Defendants would have 30 days to process and approve the application.

7. Appellants therefore request a period of 14 days following September 27, 2013 (or until October 11, 2013) to file their opening Brief, so that Appellants have time to prepare the Brief should Plaintiff Plastino still be denied a concealed carry permit despite the passage of SB 75.

8. This is Plaintiffs-Appellants’ second request for an extension of time. The undersigned regrets any inconvenience that this request may cause this Court or counsel. This request is made in good faith and not for the purpose of delay, and

because it will conserve the Court's and counsel's time and resources to see if SB 75 is applied as stated to Plaintiff Plastino before fully litigating this appeal.

9. Appellant's Counsel, by signature below, swears to the factual matter contained herein as an Affidavit.

Dated: July 24, 2013

Respectfully submitted,

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By: /s/ David G. Sigale
David G. Sigale

One of the Attorneys for Appellants

**CERTIFICATES OF SERVICE
FOR DOCUMENTS FILED USING CM/ECF**

Certificate of Service When All Case Participants Are CM/ECF Participants

I hereby certify that on July 24, 2013, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ David G. Sigale